

Date

Dennis Hoffman
461 Carolyn Drive
Harahan, Louisiana 70123

Re: Ethics Board Docket No. 2020-634

Dear Mr. Hoffman:

The Louisiana Board of Ethics, at its December 4, 2020 meeting, considered your request for an advisory opinion as to whether it is a violation of the Code of Governmental Ethics for you, as the son-in-law of a member of the Harahan City Council to potentially serve as an unpaid member of certain various boards and committees of the City.

FACTS PROVIDED

You are the son-in-law of a Harahan City Council member, and you have expressed willingness to serve on various local boards and committees on an unpaid, volunteer basis. The following specific potential roles were given: Committee on Economic Development, Civil Service Board, Fire Department Advisory Board, Planning and Zoning Board, Appeals and Variances Board, and Magistrate Court Judge. Each of these positions is selected by the Mayor, subject to approval by the City Council, and reports directly to the Mayor or other agency head. You stated that you would be willing to decline all compensation for such role, including costs.

LAWS

La. R.S. 42:1102(13) defines "immediate family" as the term relates to a public servant to mean his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

La. R.S. 42:1102(23) defines "transaction with a governmental entity" as any proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other such particular matter which the public servant or former public servant of the governmental entity in question knows or should know: (a) is, or will be, the subject of action by the governmental entity; (b) is one to which the governmental entity is or will be a party; or (c) is one in which the governmental entity has a direct interest. A transaction involving the agency of a governmental entity shall have the same meaning with respect to the agency.

La. R.S. 42:1113(A)(1)(a) states no public servant or a member of such a public servant's immediate family, or a legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1113(A)(1)(b)(ii) states that La. R.S. 42:1113(A) shall not prohibit a municipal or parish governing authority from appointing one of its members to a board or commission for which the governing authority is the appropriate appointing authority and the appointee receives no salary or per diem for service on the board or commission.

ANALYSIS

As the son-in-law of a council member, you would be considered an immediate family member of a City Council member under La. R.S. 42:1102(13). The prohibition contained in La. R.S. 42:1113(A)(1)(a) will prevent you, as an immediate family member of a council member, from being appointed. While your request uses the definition of "transaction" from the Cambridge Dictionary that would exclude arrangements for volunteer services, "transaction" is a defined term under the Code of Governmental Ethics. The Board has concluded that the appointment is a transaction under La. R.S. 42:1102(23). Notably, while the exception contained in La. R.S. 42:1113(A)(1)(b)(ii) would allow the city councilmembers to be appointed to boards and commissions on an unpaid basis, such exception only relates to the actual councilmembers and not their immediate family members.

CONCLUSION

The Board concluded, and instructed me to inform you that your appointment as an immediate family member of City Council member to boards and commissions which are subject to the approval and jurisdiction of the City Council would be a violation of La. R.S. 42:1113(A)(1)(a).

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Charles E. Reeves, Jr.
For the Board